

**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 29, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of November 29, 2006, was called to order by Mayor Hitchcock at 6:40 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual Litigation: Government Code §54956.9(a); One Case; *People of the State of California and the City of Lodi, California v. M & P Investments, et al.*, United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 6:40 p.m. Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matter.

The Closed Session adjourned at 7:00 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:11 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following action.

In regard to Item C-2 (a), settlement direction was given.

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of November 29, 2006, was called to order by Mayor Hitchcock at 7:11 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. PRESENTATIONS

B-1 Dennis Lewis, President of Lodi Adopt-A-Child, gave a presentation to the City Council regarding its annual Christmas program.

C. ORDINANCES

C-1 Ordinance No. 1787 entitled, "An Ordinance of the City Council of the City of Lodi Approving the Request of Tom Doucette, Frontier Community Builders, for Pre-Zoning to PD (Planned Development) of 257.76 Acres (Southwest Gateway Project) and Two Parcels on Harney Lane (565 and 603 East Harney Lane) and Pre-Zoning to R-MD (Medium Density Multifamily Residence) on 47.79 Acres (Other Areas to be Annexed)" was **pulled from the agenda and continued to the regular meeting of December 6, 2006.**

C-2 Ordinance No. 1788 entitled, "An Ordinance of the City Council of the City of Lodi Adopting a Development Agreement Pertaining to the Development of 257.76 Acres Located on the West Side of Lower Sacramento Road between Highway 12-Kettleman Lane and Harney Lane (Southwest Gateway) (Development Agreement GM-05-001)" was **pulled from the agenda and continued to the regular meeting of December 6, 2006.**

D. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider the following:
- a) Approve an Initial Study/Negative Declaration for the City-Initiated General Plan and Sphere of Influence Amendments to Establish an Agriculture/Greenbelt Area between Lodi and the City of Stockton  
*NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31*
  - b) Approve a City-Initiated General Plan Amendment to Establish a New Agriculture/Greenbelt General Plan Designation, Identify the 3 ½ Square Mile Agriculture/Greenbelt Area on the General Plan Diagram, Amend and Establish Goals, Policies, and Implementation Programs to Preserve the Agriculture/Greenbelt between Lodi and the City of Stockton
  - c) Request that the Local Agency Formation Commission (LAFCO) Amend Lodi's Sphere of Influence to Include the Agriculture/Greenbelt Area within the City's Sphere of Influence

City Manager King introduced the subject matter, stating the topic was before the City Council pursuant to direction given on March 29, 2006. Mr. King outlined the procedure for the public hearing and introduced Community Development Director Hatch and LSA representative, Lynette Dias.

Ms. Dias made a presentation regarding the City-initiated agriculture/greenbelt General Plan and Sphere of Influence (SOI) amendments. Ms. Dias reviewed the possible actions before the City Council. General topics of discussion included a brief historical overview of the General Plan amendment, SOI amendment, timing, the City Council's previous direction, and the General Plan text additions.

Council Member Beckman inquired about LU-19 and the purpose of tonight's proposed adoption. Ms. Dias stated the primary action before the Council is the SOI amendment to strengthen implementation. She stated this step allows the City to exercise some control of the subject area for potential actions in the future. Community Development Director Hatch stated the subject property is being proposed as a study area in which Lodi, rather than Stockton, has an interest. Mr. Hatch stated tonight's actions do not involve specific uses and/or zoning considerations.

Council Member Hansen inquired about the newly proposed LU-17 language. Ms. Dias replied in the affirmative that this is the first time anyone has seen the newly proposed LU-17 language. She stated the language itself was drafted based on the Planning Commission meeting and is an additional alternative to the original language.

Mayor Hitchcock asked if slide numbers 6 and 7 of the presentation were seen by the Planning Commission. Ms. Dias replied in the affirmative and stated the difference is the study area, program, and the elimination of the 40-acre minimum.

Ms. Dias continued her presentation, discussing topics including General Plan text revisions, land use diagram revisions, what the approval of the amendments would and would not be, environmental assessment, task force deliberations on amendments, public hearing on November 8, 2006, and Planning Commission recommendations. Ms. Dias stated an additional alternative is a different geographical boundary for the area.

Council Member Hansen asked if a similar process has occurred elsewhere in the County. Mr. Hatch stated to his knowledge a similar process has not occurred in the County, but it has occurred elsewhere in the state.

Council Member Hansen inquired about the approval process. Mr. Hatch stated that the only item pending LAFCO approval is the addition of SOI area as the General Plan is designated directly by the City Council.

Council Member Hansen inquired about the effect on property values. Mr. Hatch stated the consulting firm of Strategic Economists opined that the property values would not be affected by the SOI amendment. Council Member Hansen asked if additional banks were consulted, to which Mr. Hatch replied in the negative.

Mayor Pro Tempore Johnson stated three individual bankers he spoke with verified the same.

Council Member Hansen inquired about the revisions to the General Plan land use diagram. Ms. Dias stated it is 2,280 acres and 3.5 square miles. She stated the area abuts Stockton's proposed plan and the proposal is that Stockton's northern boundary line becomes Lodi's southern boundary line.

Council Member Hansen asked if there is a possibility of going west. Mr. Hatch stated the General Plan amendment would look at a 360 degree overview, including the west.

Council Member Hansen disclosed he met with Jeryl Fry and Kurt Kautz regarding the subject matter prior to the Council meeting.

Council Member Mounce inquired about the 29 units per acre make-up of the village. Ms. Dias stated it would be a fully urbanized community with clusters including areas of single family homes, apartments, parks, and commercial uses.

Council Member Mounce disclosed she met with Jeryl Fry and Kurt Kautz regarding the subject matter prior to the Council meeting.

Mayor Hitchcock inquired about the area around Eight Mile Road. Ms. Dias stated the village area is south of Eight Mile Road and the area north is in the Stockton study area.

Council Member Hansen inquired about boundary locations. Ms. Dias stated the areas abut one another and the same line would be used for boundaries.

Mayor Hitchcock inquired about the result of leaving the subject area out of the SOI. Ms. Dias stated Stockton may have projects into the area via General Plan amendment, but it would need to go to LAFCO for SOI amendments.

Council Member Beckman disclosed he met with Jeryl Fry and Kurt Kautz regarding the subject matter prior to the Council meeting.

Council Member Beckman inquired about statements regarding bank loans in the November 29, 2006, letter. Mr. Hatch stated the letter proposes the question. Mr. Beckman suggested a further investigation of effects to property values.

Mayor Pro Tempore Johnson stated the bottom line for appraisals and lending is the usage of what is on the property. Mr. Hatch stated Strategic Economics did consult with F&M Bank regarding the same.

#### Hearing Opened to the Public

- Tom Orvis from the San Joaquin Farm Bureau Federation spoke in opposition to the proposed actions based on concerns regarding property values. He also provided a copy of a letter sent to Community Development Director Hatch on October 30, 2006, which was made a part of the record.

- Mike Robinson from the San Joaquin Farm Bureau Federation spoke in opposition to the proposed actions based on concerns regarding property values and requested a continuance to further explore the matter.
- Bruce Fry, member of the Greenbelt Task Force, spoke in opposition to the proposed actions based on concerns regarding the consensus reached between property owners, overlay zoning including clustering, and efforts with the County. Council Member Hansen inquired about the proposed LU-19 language. Mr. Fry stated the designation by the County needs to come before the SOI amendment. Mayor Hitchcock inquired about the timing of efforts by the Greenbelt Task Force. Mr. Fry stated it is difficult to get consensus from 186 people. Council Member Beckman inquired about approval of the AL-5 designation. Mr. Fry requested the City assist with the County designation first. Mr. Fry described the cluster option in response to Council Member Hansen.
- Bob Carloni spoke in opposition to the proposed actions based on his concerns of alignment with the negative declaration, natural growth promotion, and the long-term time frame for development by Stockton. Council Member Mounce inquired about the AL-5 proposal. Mr. Carloni stated it is a good option to appease and mitigate fears, but the separator is a bad idea.
- Woody Alspaugh spoke in favor of the proposed action based on his concerns regarding open space, property values, and profitability of the agriculture business.
- Pat Patrick, President/CEO of the Lodi Chamber of Commerce, spoke in opposition to the proposed actions based on his concerns regarding property values, zoning regulations, future relations with the agricultural community, and task force recommendations. Mayor Hitchcock inquired about the change of position from support to non-support. Mr. Patrick stated the Chamber supports a plan that would promote sustainability of profitability for the City while working with the agricultural community on a plan. Discussion ensued between Mr. Patrick and the City Council regarding the AL-5 designation, vineyardette concept, sufficient acreage for farming, property values, timing for County action, and the City's SOI amendment. City Manager King provided an overview of the potential options available to the City Council regarding the proposed actions.

#### RECESS

At 9:12 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:30 p.m.

#### D. PUBLIC HEARINGS (Continued)

D-1 (Cont'd.)

- Joe Valente spoke in opposition to the proposed actions and submitted a signed petition, which was made a part of the record.
- Pat Stockar spoke in opposition to the proposed actions based on his concerns regarding Greenbelt Task Force recommendations, models similar to Napa and Livermore, various AG and AL uses, potential future development, long-term loans versus production loans, and County efforts. Council Member Hansen inquired about the difference between AL-5 and AG-5 uses. Mr. Hatch stated the AG-5 lands are generally to the north and the challenges are dust and hard agricultural uses while AL-5 is much softer. Council Member Hansen asked if objections would still exist if the zoning was AL-5. Mr. Stockar replied in the affirmative because a more extensive plan for an SOI is needed. Mayor Pro Tempore Johnson inquired about property sales. Mr. Stockar stated he has heard nothing of farmers selling their properties. Council Member Mounce inquired about noticing, and Mr. Stockar stated he was properly noticed.

- Joe Precissi, owner of the airport located on Lower Sacramento Road, spoke in opposition to the proposed actions based on his concerns regarding property values, specific effects to his property, and his opposition to a greenbelt area and maintenance of the same.
- Steve Herum, representing Armstrong Road Property Owners, provided documentation for the record and spoke in opposition to the proposed actions based on concerns regarding efforts in working with the County first, the lack of an immediate threat of development by Stockton, legal deficiency of the initial study, the City's prior position on litigation for the city of Stockton, prior SOI amendment efforts, the SOI as a planning mechanism, and independent recommendations by the Planning Commission. Council Member Hansen inquired about the AL-5 designation. Mr. Herum stated it is voluntary and a mapping process is required, which would impact values. Council Member Hansen inquired about in perpetuity. Mr. Herum stated the SOI would be permanent unless LAFCO takes it away, which is unheard of. Council Member Beckman inquired about legal concerns. City Attorney Schwabauer stated substantial modifications must be sent back to the Planning Commission and requested additional time to make relevant determinations. Mr. Hatch stated the AL-5 designation is a substantial change. Council Member Beckman suggested continuing the hearing. Mayor Pro Tempore Johnson disclosed he also met with Jeryl Fry and Kurt Kautz prior to the Council meeting. Discussion ensued between Mayor Pro Tempore Johnson and Mr. Herum regarding the voluntary nature of the AL-5 designation, clustering, enforcement by Code and the Subdivision Act, and a zoning ordinance. In response to Council Member Hansen, Mr. Herum suggested continuing efforts with the County before SOI amendments are requested.
- Tom and Joann Barbero submitted a petition for the record and spoke in opposition to the proposed actions based on their concerns regarding property values and stated they supported an AL-5 designation through the County.
- Diego Olagaray spoke in opposition to the proposed actions based on his concerns regarding property values, equity, and a speculation component.
- Mark Chandler spoke in opposition to the proposed actions based on his concerns regarding timing and trust between the City and the agricultural community.
- David Nielsen spoke in favor of the proposed actions based on his concerns regarding protecting land and open space.
- Mike Carouba spoke in opposition to the proposed actions based on his concerns regarding going to the County first and potentially losing with LAFCO.
- Bruce Blodgett spoke in opposition to the proposed actions based on his concerns regarding operating agriculture as a business and setting precedent.
- Bob Lauchland spoke in opposition to the proposed actions based on his concerns regarding obtaining designation through the County first.
- Dennis Silber spoke in favor of the proposed action based on his concerns regarding preserving open space and land.
- Jeryl Fry spoke in opposition to the proposed actions based on his concerns regarding timing and creating a separator through the preservation of agriculture.
- Tony Fuso spoke in opposition to the proposed actions based on his concerns regarding agricultural businesses making a fair living.

Public Portion of Hearing Closed

City Manager King provided a historical background of LAFCO, reviewed the matrix showing cities in California annexing land for open space preservation, and provided various options for the City Council as to how they may proceed with the subject matter.

Community Development Director Hatch sought direction for the Greenbelt Task Force.

Discussion ensued between the City Council regarding tabling the subject matter and the Greenbelt Task Force for a six-month time period to provide the applicable parties an opportunity to work together to pursue alternatives and County efforts.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Hansen second, unanimously tabled the subject matter and suspended the Greenbelt Task Force for a six-month period to provide the parties with an opportunity to work with one another on a solution.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Johnson, Hitchcock second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

E. COMMUNICATIONS

- E-1 The City Council, on motion of Council Member Hansen, Beckman second, unanimously made the following appointment:

Lodi Arts Commission

Beverly Norcross Term to expire July 1, 2007

- E-2 The City Council, on motion of Mayor Pro Tempore Johnson, Mounce second, unanimously directed the City Clerk to post for the following vacancies:

Greater Lodi Area Youth Commission

*Adult Advisor*

Jeff Fleak Term to expire May 31, 2008

Library Board of Trustees

Ken Vogel Term to expire June 30, 2007

F. REGULAR CALENDAR

- K-1 "Adopt Resolution Authorizing the City Manager to Execute a Joint Funding Agreement with the City of Stockton for the Joint Recycled Water Expanded Feasibility Study and Implementation Plan, Appropriating Funds (\$50,000), and Authorizing Appointment of a Council Member to Participate on Consultant Selection Team"

Council Member Mounce inquired about timing. Public Works Director Prima stated they would like to start right away and send out the proposal immediately.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Beckman second, unanimously adopted Resolution No. 2006-213 authorizing the City Manager to execute a Joint Funding Agreement with the city of Stockton for the Joint Recycled Water Expanded Feasibility Study and Implementation Plan, appropriating funds in the amount of \$50,000, and authorizing appointment of Council Member Mounce to participate on the consultant selection team.

- K-2 "Identification of Council Members to Serve on a Financial Advisor Selection Committee"

City Manager King provided a brief overview of the subject matter, stating related market issues will be reviewed over the next 30 days and a future ratification may be requested.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Hansen second, unanimously selected Mayor Pro Tempore Johnson and Council Member Mounce to serve on a financial advisor selection committee.

- K-3 "Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$6,040.55)"

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Johnson second, unanimously approved the expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program Litigation in the amount of \$6,040.55, and as detailed below:

<u>Invoice No.</u>	<u>Description/City of Lodi v. Donovan</u>	<u>Amount</u>
860701	Harry A. Cannon, Inc. – Deposition Transcript	\$1,651.43
861001	Harry A. Cannon, Inc. – Deposition Transcript	\$1,714.14
861301	Harry A. Cannon, Inc. – Deposition Transcript	<u>\$1,784.61</u>
		<u>\$5,150.18</u>

1218335-100 JAMS Mediation Service (Hartford v. City of Lodi) \$ 890.37

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:50 p.m.

ATTEST:

Randi Johl  
City Clerk